First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Tzeachten First Nation

DOC
BC
W324
D:F57T93
2000
c.3

WATER BC our vital resource
Ministry of Environment, Lands and Parks

LEGISLATIVE LIBRARY
VICTORIA, BC V8V 1X4

BRITISH COLUMBIA

LEGISLATIVE LIBRARY OF BRITISH COLUMBIA
3 3298 00247 5946

MINISTRY OF ENVIRONMENT, LANDS and PARKS
WATER MANAGEMENT BRANCH

FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Tzeachten First Nation

Research and writing by:	Christina Rocha
Edit by:	JOL Consulting
Review by:	Gary W. Robinson
Prepared for publication:	March, 2000

101-01425/

Canadian Cataloguing in Publication Data
Rocha, Christina.
First Nations water rights in British Columbia. A historical summary of the rights of the Tzeachten First Nation

ISBN 0-7726-4211-7

1. Water rights - British Columbia - Tzeachten Indian Reserve No. 13. 2. Stalo Indians - British Columbia - Chilliwack Region - Government relations. I. JOL Consulting (Firm) II. Robinson, Gary W. III. British Columbia. Water Management Branch. IV. Title. V. Title: Historical summary of the rights of the Tzeachten First Nation.

KEB529.5.W3R633 2000 346.71104'32 C00-960135-X
KF8210.W38R633 2000

ACKNOWLEDGMENTS

The Ministry of Environment, Lands and Parks wishes to acknowledge three partners whose contributions were invaluable in the completion of the *Aboriginal Water Rights Report Series:*

The Ministry of Aboriginal Affairs, was a critical source of funding, support and direction for this project.

The U-Vic Geography Co-op Program, was instrumental in providing the staffing resources needed to undertake this challenging task. Through the services of June Whitmore and her office, the project benefited from the research, writing, editing and co-ordination of these outstanding students:

Jas Gill
Julie Steinhauer
Kelly Babcock
Daniella Mogus
Miranda Griffith
Christina Rocha
Rachel Abrams
Elizabeth Lee
Sara Cheevers

The services of Clover Point Cartographics Limited of Victoria, was responsible for the preparation of most of the map drawings, which form a valuable part of these documents.

In addition to these three key partners, I must acknowledge the valuable contributions of other Water Management staff, past and present, including Jack Farrell, Jim Mattison, Richard Penner, Diana Jolly, Greg Blaney, Gary Lucas and Kim Johnston.

The sheer numbers of First Nations groups' with histories of water rights made the completion of the Report Series seem, at times, prolonged. The determination, patience and vision of the partners was essential in the completion of the Series and is gratefully acknowledged.

Gary Robinson
Project Manager
Water Management Branch

TABLE OF CONTENTS

LOCATION 1

WATER ALLOCATIONS 1

HISTORY, CURRENT STATUS AND NOTES 2

Wedrick Spring
History 2
Current Status 2
Notes 3

OTHER INFORMATION 3

APPENDICES

TAB NO.:

1 TABLE: Summary of Water Rights Records for the Tzeachten First Nation

2 LICENCES and PLATS
Conditional Licence 9366

3 MAPS: Tzeachten Band
i. 1:50,000 map showing Tzeachten Reserve No. 13.

FIRST NATIONS WATER RIGHTS REPORT

BAND: Tzeachten Band

ADDRESS: P.O.Box 278, Building E. Tzeachten Community Centre, 45585 Promontory Road, Sardis, B.C., V2R 1A6

CHIEF: Chief Ken Malloway

PHONE: 858-3888 **FAX:** 858-7692

AFFILIATION: Sto:lo Nation Canada

LOCATION:

The Tzeachten Band occupies one 282.1 hectare reserve, Tzeachten Reserve No. 13, in an area located south of Chilliwack in the lower mainland region of the Province. Water rights have been issued on this reserve.

The most recent population figures compiled by the Ministry of Finance report that the Tzeachten Band has a total population, including registered and non-registered members, living on- and off-reserve, of 278.

The Tzeachten Band reserve is located in the Coastal Western Hemlock Biogeoclimatic Zone. The reserve lies at sea level, and experiences climate ranging in which average daily temperatures range from lows of 0 degrees centigrade in January, to highs of 20 degrees centigrade in July. Annual rainfall for the area averages between 100 and 250 centimeters.

Water courses of significance include:

- **Wedrick Spring**: located directly south of Tzeachten Reserve No. 13.

WATER ALLOCATIONS:

There are no records of allocations made by either the Indian Reserve Commission, by Order-in-Council of the Lieutenant Governor in Council, or by Order of the Board of Investigation.

The water rights of the Tzeachten Band have been determined by two actions of government over the years:

1) The issue of water licences in response to Federal Government applications requesting authorization for the use of water on reserve lands.

2) Actions to amend, cancel or record as abandoned, licenced rights pursuant to provisions contained in the *Water Act*.

HISTORY, CURRENT STATUS AND NOTES:

The history of water rights, the current status of rights, and notes for the Tzeachten Band with respect to Wedrick Spring is as follows:

Wedrick Spring:

History:

Dec 15, 1927 — In response to an application filed by Agnes Rexford, the Comptroller of Water Rights issued Conditional Water Licence 9336. The licence was assigned a precedence date of August 29, 1927 and authorizes the diversion of 1,000 gallons of water per day from Wedrick Spring for domestic purpose. The appurtenant lands are defined as that part of W1/2 of L.S. 2, Sec.7, Tp. 26, E.C.M., lying south of Indian Reserve No. 13 (Tzeachten), on which is situate a dwelling and appendages thereto.

Sep 1, 1932 — Having given notice to the lessee of the land appurtenant to Conditional Water Licence 9336, the Comptroller of Water Rights canceled the licence for failure to pay the annual rentals.

Current Status:

There are currently no licences active on Wedrick Spring.

The Water Survey of Canada has no records of streamflow for Wedrick Spring. No other sources of current water availability data were located during the course of this study.

Notes:

1. The Tzeachten Band's licenced water rights were lost as a result of the cancellation of Conditional Water Licence 9336.

OTHER INFORMATION:

Groundwater Records:

A review of well records maintained by the MELP - Groundwater Section found that no wells have been reported on Tzeachten Reserve. However, the provision of well information to the Groundwater Section is voluntary; the review should not, therefor, be assumed to be complete.

Alternate Water Sources:

The proximity of Tzeachten Reserve No. 13 to the city of Chilliwack or to the town of Sardis presents the potential for water supply to the reserve via connection to either municipal water system.

Summary of Water Rights Records

Tzeachten Band

Water Source	Priority Date	Reserve Name	File No.	Document Type	Status	Superceded By	Licence PUC/MOD & OIC Allotments	Comments
Wedrick Spring	1927/08/29	Tzeachten 13	0077702	CL 9336	Canceled		1,000 GAD/Domestic	

PROVINCE OF BRITISH COLUMBIA.

WATER RIGHTS BRANCH.

DEPARTMENT OF LANDS.

CONDITIONAL WATER LICENCE.

For Domestic purpose.

Appurtenant to that part of W½ of L.S. 2, Sec.7, Tp.26, E.C.M., lying south of Indian Reserve No. 13 (Tze-aohten), on which is situate a dwelling and appendages thereto.

WHEREAS AGNES REXFORD as owner or lawful occupant of the land, mine, or undertaking hereinafter specified has applied for a licence to take and use water in the manner hereinafter set out, and has taken all the steps required of such applicant under the "Water Act," prior to the issue of this licence, and is, under the said Act, entitled thereto:

Now, therefore, in pursuance of the said Act, this conditional licence is issued, granting the licensee hereunder the right, to take and use water under the following terms and conditions:—

(a.) The source of the water-supply is Wedrick Spring, located as shown in a ~~tributary of~~ the exhibit marked "A" hereto attached.

(b.) The point of diversion from the stream is located as shown in the exhibit marked "A" hereto attached, which is incorporated herewith and made a part hereof.

(c.) The date from which this licence and the right to take and use water thereunder shall take precedence is 29th August, 1927.

(d.) The water is to be used for Domestic purpose and incidentally for - - - - - purpose.

(e.) The maximum quantity of water which may be used at the place of use is:—

For Domestic purpose 1000 gallons a day.

For - - - purpose - - -

and an additional amount may be diverted to provide against reasonable loss by seepage and evaporation in conveyance from the point of diversion to the place of use.

(f.) The period of the year during which the water may be used is the whole year.

(g.) The area and description of the lands or mines upon which the water may be used are that part of W½ of L.S. 2, Sec.7, Tp.26, East of Coast Meridian, lying south of Indian Reserve # 13 (Tze-Aohten) on which is situate a dwelling and appendages thereto.

which area and description are more particularly shown in the said exhibit "A."

See Board Order No. 1 xxx 2

File Number 077702 Licence Number 9336

W.H.B. 1002(1)—1M-927-0412. (Conditional Licence—Domestic, Mining, Miscellaneous, etc.)

ORIGINAL

(*h.*) The works which are required to be constructed consist of all the works set out in the exhibit marked "B" hereto attached, which is incorporated herewith and made a part hereof.

(*i.*) The construction of the said works shall be commenced on or before the 31st day of March, 19 28, and shall be prosecuted with due diligence and in a workmanlike manner and to the satisfaction of the Comptroller of Water Rights.

(*j.*) The said construction shall be completed and the water beneficially used for the purpose set out in this licence on or before the 30th day of September, 19 29.

(*k.*) This licence does not authorize the construction or maintenance of any works upon or the use or occupation of any lands belonging to the Crown in the right of Canada unless and until such construction or maintenance is approved or such use or occupation authorized by the Minister of the Interior.

(*l.*) Before any change is made in the said works which would be a material deviation from the plans as approved or the works as accepted by the Comptroller, plans of such proposed change must be filed with the Comptroller and approved by him.

(*m.*) This licence shall not in any way be deemed to be a final licence for the use of water, but shall have the effect only of a conditional licence issued under Part II. of the "Water Act," and shall be subject to all the provisions of said Act, including the filing of proof of the completion of the said works and the putting of the water to such beneficial use within the time limited by the provisions of section 74 of the said Act.

Issued this 15th day of December, 19 27.

J. Macdonald

Comptroller of Water Rights.

File Number 077702

Licence Number 9336

N.B.—In order that statements of rentals due the Province shall be sent to the proper party, notice of the date of any change in the ownership of the lands, mines, or undertaking specified in this licence should be filed with the Comptroller of Water Rights by the new owner.

W.R.B. 1002(2)—1M-927-9412. (Conditional Licence—Domestic, Mining, Miscellaneous, etc.)

ORIGINAL

PROVINCE OF BRITISH COLUMBIA.

WATER RIGHTS BRANCH.

DEPARTMENT OF LANDS.

EXHIBIT "B"

(APPROVAL OF PLANS AND LIST OF WORKS TO BE CONSTRUCTED).

The works which are accepted as necessary and suitable for the taking and (or) using of the water under the above-mentioned licence, and which are more fully set out in the plans and specifications filed in the office of the Comptroller of Water Rights numbered 583203 B

as altered, amended, or limited by supplemental plans and specifications numbered 591999 E

or in letters or other documents referred to as

which plans and specifications as thus altered, amended, or limited are hereby approved, are as follows:—

Tank

File 077702

J. Macdonald

Comptroller of Water Rights.

W.R.B. 1005 (Approval of Plans—3M-927-9414—Forming part of Conditional Water Licence No. 9336).

5134

ORIGINAL

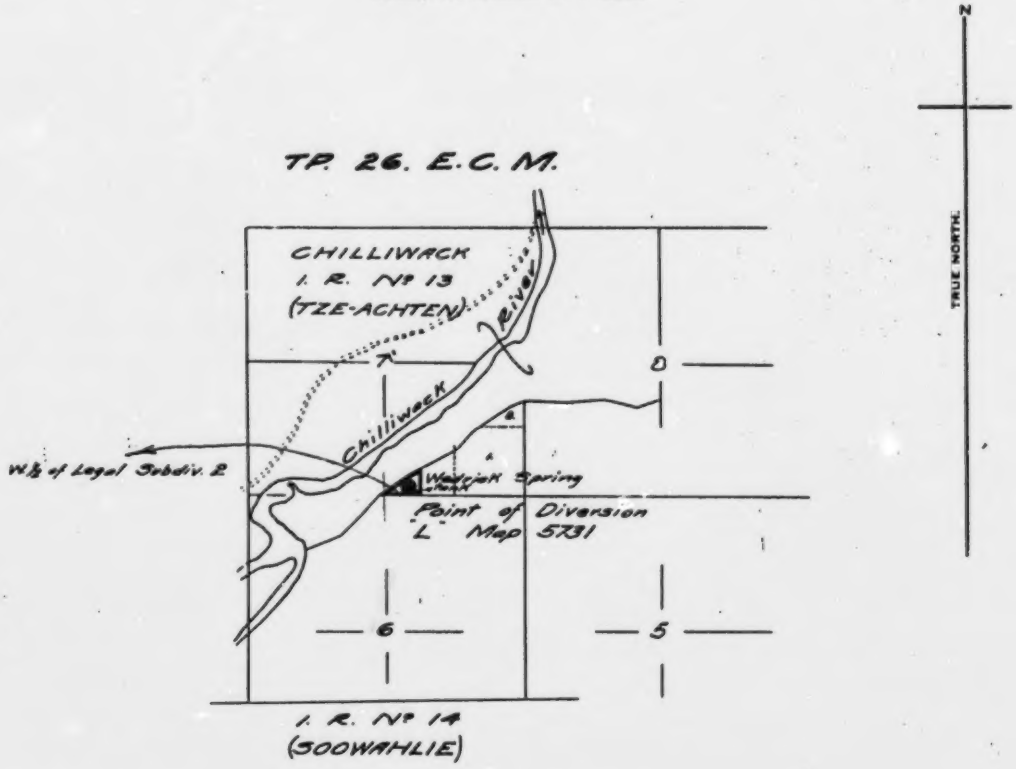
6/

British Columbia.

To accompany Conditional Licence No. 9336 Precinct.

NEW WESTMINSTER WATER DISTRICT.

Scale, 40 Chains to 1 Inch.



The boundaries of the land to which this licence is appurtenant are shown shaded.

W.G.P.
C.H.H.

Signature J Macdonald

Date 15th Dec. 1927

EXHIBIT "A"

R. B.

C. L. 9336
File 077702

PROVINCE OF BRITISH COLUMBIA.

WATER RIGHTS BRANCH.

DEPARTMENT OF LANDS.

"WATER ACT."
(Section 17.)

CANCELLATION ORDER.

In the Matter of Conditional Water Licence 9336 authorizing the Diversion of Water out of Wedrick spring for domestic purpose on part of the W½ of Legal Subdivision 8, Section 7, Township 26, East Coast Meridian, lying south of Indian Reserve #15 (Tse-Achten).

File No 077708

BEFORE THE WATER BOARD.

The Board having found that the licensee under Conditional Water Licence 9336 has for three years or more failed to pay the rentals due to the Crown in respect of the said licence, and having caused at least thirty days' notice to be given by letter sent to the licensee at his last-known address of its proposal to cancel the said licence, and cause to the contrary not having been shown by the licensee.

The Board hereby cancels said Conditional Water Licence 9336

DATED at Victoria, B.C., this 1st day of September, 193 2

WATER BOARD UNDER "WATER ACT."

"J.E. LANE"
Chairman.

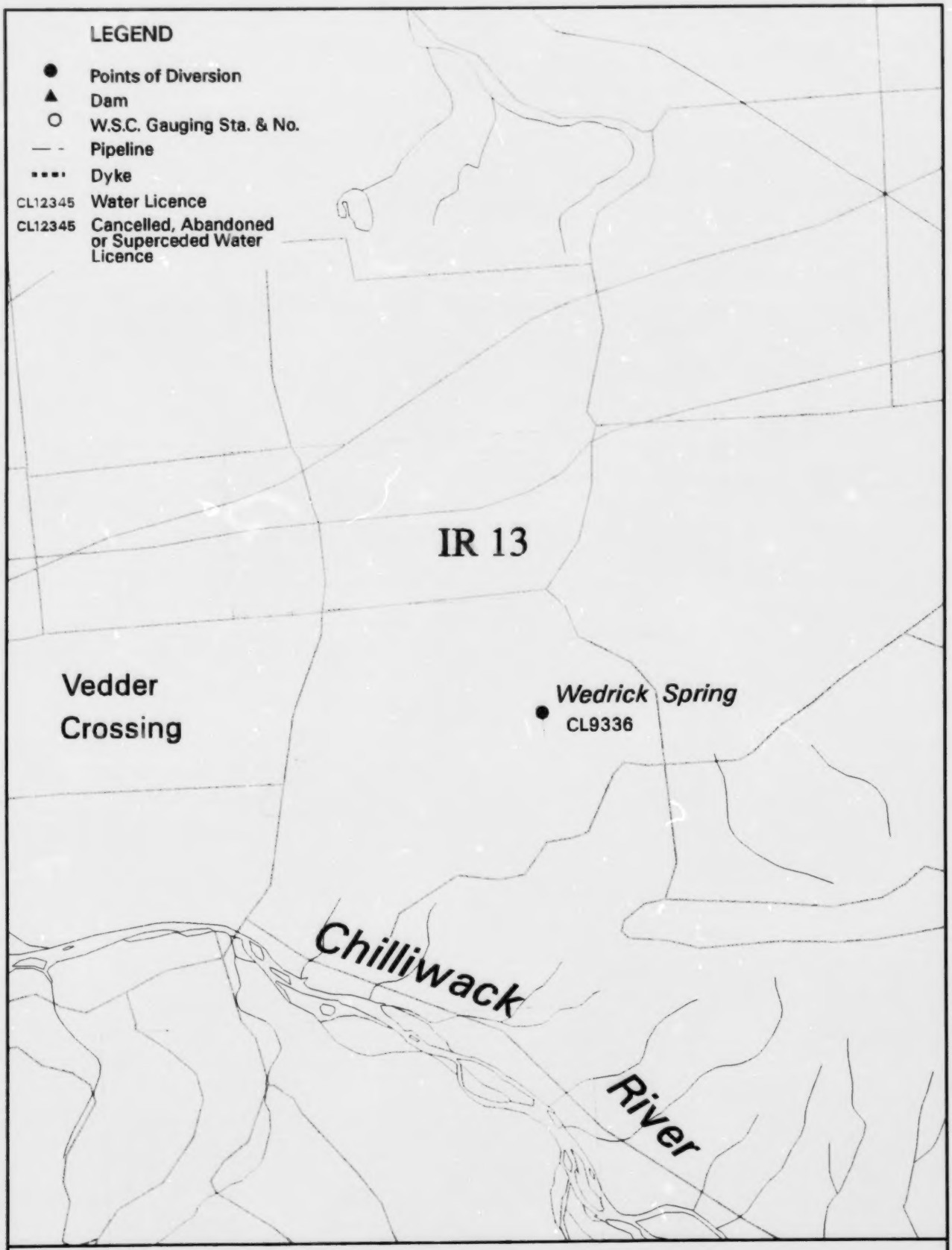
"E. DAVIS"
Member.

Board Order No. 12487.

W.R.B. 491—1M-229-8431

9336

Copy for Comptroller



TZEACHTEN FIRST NATION

Scale: 1 : 25,000

Ministry of Environment, Lands & Parks

Date: February 2000

Environment & Lands Division